

LAKE COUNTY
IMPACT FEE / CAPITAL FACILITIES ADVISORY COMMITTEE
September 15, 2011

County Commission Liaison: Commissioner Sean Parks, District 2

Members Present:

Bill Benham, Agricultural Industry Representative
Carol MacLeod, Lake County Schools
Linda Nagle, Home Builders Association of Lake County
Nancy Hurlbert, Citizen At Large
Jim Richardson, League of Cities
Jeffrey Banker, Citizen at Large
Alan Winslow, Citizen at Large
Ralph Smith, Citizen At Large

Staff Present:

Melanie, Assistant County Attorney
Amye King, Growth Management Director
Jim Stivender, Jr., Public Works Director
Steve Koontz, Budget Director
Fred Schneider, Engineering Division Director
T.J. Fish, Lake-Sumter MPO Director
Debi Tinis, Financial Coordinator
Phyllis Hegg, Assistant to Jim Stivender

Citizen Present: Vance Jochim

Acting Chairman Benham called the meeting to order at 9:40 a.m. A motion to approve minutes with changes was made by Nancy Hurlbert and seconded by Jeffrey Banker – motion passed unanimously.

Old Business: Continued from previous meeting.

New Business: Handouts provided by Jim Stivender, Public Works Director to be discussed.

Linda Nagle asked if the changes were made to the minutes from the last meeting. She was not listed as being present; opposition vote explanation removed and typos were corrected.

Acting Chair Benham suggested that the committee go through each of the revenue sources listed on the handouts and give the pros and cons of each, then vote on each separately.

Linda Nagle stated that she asked Paul at the last meeting for the last two years of the State of County Roads reports.

Amye King stated that she did not have the reports with her, but Jim Stivender interjected that he would get the reports for her.

Acting Chair Benham started the discussion with Ad Valorem revenue.

Jim Stivender advised that he used the same format for this committee's report that was recently used by the Solid Waster Committee. The first thing in the report is a statement of the objective of the committee, the committee's number one recommendation and a statement of how that should be used. Next would be the pluses and minuses beneath that statement. The first two pluses would go immediately under the directive.

Mr. Winslow asked Jim Stivender if it was \$47 million that he approved for the next year, and what the \$47 million represented.

Mr. Stivender responded that it was \$47 million over a five year period. The only thing projected out revenue-wise was sales tax. We are assuming that the impact fees we currently have on hand, would be spent.

The \$47 million includes the amount of grants, impact fee funds remaining, and projected sales tax over the next five years. Twenty to twenty-five million dollars of it is projected sales tax. The other twenty million dollars is remaining impact fees that will be spent over the next two years.

Acting Chair Benham stated that the only thing that might be missing is the total amount of revenue that might be generated. Discussion on ad valorem followed.

Linda Nagle questioned the statement under "history" referring to general fund. She thought that it should say "ad valorem".

Vice Chair Benham added that ad valorem by general definition is strictly property tax.

Melanie Marsh clarified that not everything in the general fund is capable of being used for this purpose. Much of it is restricted funds – so the 8% should come from the ad valorem.

Nancy Hurlbert stated that she would add under "history" that this was a major source of transportation funding prior to the use of impact fees.

Mr. Winslow interjected that the way the previous task force worded it, this had to be considered before any other consideration. He also stated that the committee should recommend that before considering renewal of the gas tax or sales tax.

Carol MacLeod stated that the previous task force report said that they were surprised to learn there were no general fund revenues being used for road maintenance.

Acting Chair Benham clarified that these recommendations would start next budget cycle, not this one.

Nancy Hurlbert asked if there would be a third bullet stating that this is the first and foremost recommendation of the committee.

Acting Chair Benham asked if they wanted a vote, to which Ms. Hurlbert replied "general consensus".

Mr. Winslow stated that the committee cannot recommend this strongly enough; it is only about 10% of the total amount needed.

Mr. Richardson made a motion that the committee prioritizes its final recommendations, and that ad valorem be the number one recommendation.

Linda Nagle seconded the motion.

Acting Chair Benham asked for comments.

Mr. Winslow stated that everyone agreed this should be number one, however, the committee did not yet agree on what type of emphasis should be put on it. He also stated that sales tax and gas tax shouldn't be used if the commission can't be responsible for some portion in the county budget.

Carol MacLeod questioned the history section of Jim Stivender's handout on this issue. In that section, it states that this recommendation is "loosely based", and in her opinion, it not loosely based, you are restating it and reemphasizing it.

Linda Nagle recommended that the committee adopt much of the language that was in the first task force's report to the BCC.

The motion was unanimously adopted by the committee.

Mr. Koontz asked if the committee wanted to put a chart in the report with all of the revenues over the past twenty years or just an aggregate number.

It was agreed that an aggregate number would be used.

Acting Chair Benham said that it must be qualified – the Board of County Commissioners must be told that a growth factor was added to taxable property valuations, given that a one percent to two percent growth is expected. If the millage goes up, that number will go up. If the millage rate goes up, it would still be eight percent of that higher rate.

Acting Chair Benham then moved on to number two – reauthorization of the six cent local option gas tax. He asked for comments from the committee.

Nancy Hurlbert asked that under “history” it should be noted that this is something the Board of County Commissioners can do themselves with a super majority vote. It can be done without going to referendum.

Mr. Richardson asked if it would have Mr. Stivender’s restructuring with the municipalities.

Mr. Stivender responded that it will be sometime next year before that comes into play.

Acting Chair Benham asked Mr. Stivender how much the County gives up in their portion and how it affects the \$383 million that is projected.

Mr. Stivender advised that the discount is already shown in the projections.

Linda Nagle asked if there was a mechanism in place concerning the future process of annexations to prevent this issue from happening again.

Mr. Stivender explained that the language in the (ISBA) Interlocal Service Boundary Agreement states that once they reach 51%, the road will be the city’s responsibility. He has also indentified roads that would continue to be county roads regardless of annexation.

Linda Nagle asked for further clarification of what Mr. Stivender was saying, and what ISBA meant.

Mr. Stivender stated that if the contiguous property along a section of roadway is more than 50% inside city limits, then the road would be transferred to the city. As a city adds residents and additional road miles, they would receive a larger share of gas tax revenue.

Amye King explained that ISBA stands for Interlocal Service Boundary Agreement. It is a joint planning agreement between cities and the county. In an agreement like this, a city could annex a non-contiguous parcel of land, if the county sees that it is appropriate, agrees to it, and other cities agree to it. When a town is annexing a piece of land for the purpose of a subdivision, they would not be able to annex everything except the roads, and the agreement lasts for a period of twenty years.

Acting Chair Benham asked if there were anymore comments on this issue.

Mr. Winslow commented that this tax is the most significant one of all – it is a third of the total revenue. Ninety percent of what is being proposed is new taxes, because people look at renewing of taxes as an opportunity to reconsider the tax.

Mr. Banker asked if it was actually \$383 million or are we talking about only the projected amounts from 2013.

Acting Chair Benham answered that the total represents, with all adjustments, what that revenue source might generate to the year 2035.

Mr. Stivender stated that the county will be looking to the cities and the League of Cities for their support. He also stated that in this funding source road maintenance should be emphasized, and that the general fund allocation be used for maintenance and capital.

A motion was made by Nancy Hurlbert that number two be listed as number two in the recommendation.

Acting Chair Benham asked if she meant number two in priority also.

Nancy Hurlbert responded, yes.

Mr. Ralph Smith seconded the motion, and the motion passed unanimously.

Vice Chair Benham went on to number three – enact the five cent local option gas tax. He asked for comments, and stated that this is a 4/5 majority vote.

Ralph Smith commented that at the last meeting, the rationale behind doing this was discussed. It was said that this would hardly be noticed because when someone is traveling from county to county, the gas is almost the same price. We are still taking five cents from someone. Just because someone does not notice it, it is still being taken. He wants to recommend to the commission that this be done as a referendum.

Mr. Richardson stated that for the record he was for this, but it wasn't because he thought people wouldn't notice it. He said he wasn't trying to slip in anything that people wouldn't see.

Mr. Winslow added that one of the things that needed to be covered well in the narrative is that one of this committee's concerns when looking strictly at impact fees is that new people are paying for it. That is the reason we are looking at things like the five cent local option gas tax. Everyone in the county needs to be paying for their usage of the roads.

Nancy Hurlbert stated that a bullet should be added that this does not include diesel due to state legislation.

Carol MacLeod stated that she had a problem with this stating that it has to go to the voters. She thinks the commission should do it.

Acting Chair Benham stated that since this is a new tax, the people should be able to vote on it.

Mr. Richardson said he did not see it being voted on or passing this next year. He doesn't think we can get a 4/5 vote from the commission during an election year.

Mr. Stivender clarified that if you went for a referendum in 2012, the commission would still vote on it based on the direction of the referendum. It would not go into effect until January 2014. If the next election is not until 2014, it wouldn't go into effect until 2015. The term would be for thirty years.

Linda Nagle stated that it needs to go to the voters; we might think roads are a high priority, but the voters might not think that they are.

Mr. Richardson made a motion to make number three, the third priority and take it to referendum. Mr. Smith seconded the motion.

Nancy Hurlbert asked that the bullets state that this does not include diesel fuel, that it is a user fee, and that this would be a thirty year allocation. Mr. Richards then amended his motion to include the bullets.

Mr. Richardson then rescinded his motion because he did not want it to be the third priority.

Mr. Richardson then made a new motion recommending reprioritizing number three, adding if taken to referendum, adding the bullet points as discussed, and also striking the nickel at the pump comment.

Acting Chair Benham stated that rather than saying if they use this as a revenue source for transportation, this committee would like to see them bring it forward in referendum form rather than a super majority vote of the commission.

Ralph Smith seconded the motion made by Mr. Richardson.

Linda Nagle stated that she did not think we needed a motion about what bullet points are included as part of the discussion. She suggested that if there are items we are not sure how we want to prioritize, then we could have just the items that we are sure are our top priorities in those orders, then suggest other funding sources. Be silent on the priorities of the rest, but these are other options we think you should look at.

There was no more discussion – a vote was taken. Nancy Hurlbert opposed, and the motion passed.

Mr. Winslow stated that the committee seemed to be drifting toward prioritizing the previously established taxes and at the end saying you might consider these new taxes.

Commissioner Parks stated that he understands it is difficult to prioritize, but it would be more helpful if the committee did it. He also stated that the committee could have a minority or descending vote comment to explain something they are struggling with.

Mr. Richardson suggested that each item be voted on so that the commission will know which ones were unanimous.

Acting Chair Benham asked that the minutes reflect each item and how the committee voted on that item in the final report. He also stated that he thought 4a and 4c should be coupled.

Mr. Stivender stated that the key separation between 4a and 4c is that one stays the same, but needs to be renewed, while the other does not stay the same and still has to be renewed.

Acting Chair Benham asked if the revenue generated was 4c and not 4a.

Mr. Stivender said yes, in his report, he based everything on one quarter instead of one sixth. He also stated that it was mentioned at meetings that the committee was looking at changing the formula and would recommend that the cities use the same formula. Sales tax would be used for resurfacing and beyond if the five cent local option gas tax gets approved you could use that for resurfacing and put sales tax in more capital widening-resurfacing jobs.

Sales tax can be used for any capital item, i.e. purchases of equipment (\$1,000 plus 5 years life is the determining factor).

T.J. Fish interjected that if the School Board was removed, it would be half county, half cities. The county is still faced with half of that half going to building and the other half going to transportation. The cities would want to do the same, and that is where the matching fund program came in. If a regional county road is inside the city, then the city should be a funding partner using their sales tax.

Mr. Winslow expressed concern about driving the school board out.

Carol MacLeod stated that the school board is preparing to discuss the referendum issue.

Acting Chair Benham added that he sees it as raising taxes because if the school board needs a piece of that sales tax, then they will need to up the half a penny to 7 ½ percent to be levied. He felt that is why they were knocked out of the new vote in 2017.

Mr. Winslow added that it is not just passing a renewal; you are automatically adding another 50% of that tax for the cities.

Jim Stivender said that he recommended that the commission find out what the key components would be at the end of the sunset in 2017. So in 2015/2016 find out from the

voters what their top priorities are. In 1987 it was the jail and capping the landfill. The next time around, it was schools and transportation.

T.J. Fish stated that there is currently a discussion with Volusia, Seminole, Orange and Osceola that in either 2014 or 2016 they will be taking a referendum to their counties for transportation and Lake County is part of the task force to determine if Lake County should enjoin and use the same message, and same value surveys to get to know what the people really care about before putting it on the ballot.

Mr. Winslow added that he would favorably consider it if the committee showed it consciously considered removing the school board. Because when it was first set up, the reason the school board was in there was to cover new facilities because of growth, etc.

Jim Stivender asked if the committee wanted to say that the sales tax renewal/reallocation for one fourth was going to transportation. Is anything being left in associated with the sales tax renewal at one sixth, or should it be taken out?

The consensus of the committee was to take it out.

Mr. Richardson wanted a bullet added that the one fourth given to the cities would have to be used for transportation, strictly roads.

Mr. Winslow made a motion that the committee recommend renewal of the sales tax restructured to split the tax only between the cities and county and the cities and county's portion will be 50% allocated to roads. The other school board comment will be put in as a bullet. Recognizing that we consciously removed schools.

The motion was seconded by Nancy Hurlbert.

Nancy Hurlbert asked if the committee wanted to prioritize this since it is a renewal of a sales tax as number three.

Ralph Smith added that he thought the committee was going to go through each item one by one.

Vice Chair Benham said it would be done after going through each one. He asked for a vote on the motion. The motion was opposed by Carol MacLeod because it will pit Lake County against the school board.

The motion passed.

Mr. Richardson stated that he was adamantly against impact fees, but had a change of heart. He could go for a modest impact fee because Jim Stivender uses it as a negotiation tool with developers.

Mr. Stivender stated that in 1985, the fee was around \$750 - \$800 and that was 100% of the cost. The commission enacted a fee of \$298.00 for any sized home.

Acting Chair Benham stated that in the Duncan report, it deviated between 53% and 62%.

Discussion ensued on why square footage of a home was the determining factor for the impact fee charged.

Amye King interjected that it has been done as a unit, by square footage and the number of bedrooms. She stated that when it was done by the number of bedroom, people would label bedrooms as dens.

Linda Nagle stated that under new state law, the burden of proof is on the county. There is no connection with the size of the home, versus the use of roads. The number of bedrooms doesn't determine the number of drivers or vehicles that are in that home. The county will have to prove that a larger home requires a larger impact fee.

Ralph Smith advised that he prefers the flat amount approach. Basing the fee on square footage or the number of bedrooms requires more staff. Charge a smaller fee for smaller homes and a larger fee for larger homes.

Jeffrey Banker interjected that at some point that house could be sold to a family with fifteen children.

Mr. Richardson stated that he also prefers the flat fee.

Carol MacLeod interjected that the school board uses a student generation factor that an average home generates so many students.

A break was taken at 10:50 a.m. at which time Mr. Richardson left the meeting. The meeting resumed at 11:15 a.m.

Acting Chair Benham stated that someone needs to bring up a motion to change how the impact fee is levied because we are only making a recommendation off the Duncan report. He asked for discussion and comments.

Nancy Hurlbert stated that the most recent Duncan report took into consideration the alternative funding asked for. That is reflected in the 53% discount – realizing that the current impact fees were adopted at 50% of what Duncan recommended to keep them at the 2001 level.

Acting Chair Benham asked if the committee wanted to reference the two sheets handed out to the committee.

Nancy Hurlbert directed the committee to number 30 on the handout (Transportation Impact fee Comparison). These are the fees that were recently suspended.

Acting Chair Benham stated that the impact fee study was updated in June 2010 with those numbers being good for two more years.

Nancy Hurlbert stated that the potential fee is reflected in number 34 in the handout. The potential fee is the current or updated fee. The last column shows all four options which is the 53%.

T.J. Fish stated that without impact fees, Mr. Stivender has no negotiating tool. From a concurrency standpoint, the state law has removed concurrency as a state mandate, but every county needs to make their own decision of how they will have developers mitigate impacts. For Lake County there are only two scenarios if a road is truly failing. The MPO and Lake County work together to have that developer pay a fair share of fixing that problem if there is already a problem or if that developer is about to create the problem. For the normal subdivision that is taking advantage of that county road that does not yet have a lot of subdivisions, theoretically without an impact fee they get a free ride.

Concurrency is created only if you are triggering a road to be over capacity. So, the impact fee has become a way that everybody is paying some share toward the general network, not toward a specific problem, which is what concurrency does. So when the committee looks at whatever that dollar amount is, regardless of what other sources help bring that dollar amount down, there probably is an appropriate place for an impact fee of some level. Sumter County is one of the most successful counties in Florida to use impact fees to create public/private partnerships with developing entities.

Linda Nagle commented that Lake County can reject any development – so to say that the County has no leverage when someone wants to create a new subdivision is not true.

T.J. Fish responded that if it is already entitled, that is the difference.

Acting Chair Benham stated that some planned subdivisions have been in existence for ten, fifteen and twenty years and never been built.

T.J. Fish commented that in his scenario, you have an entitled subdivision with the comprehensive plan/zoning already there and it is a matter of them coming in and getting preliminary plat/construction plans approved, when it is our road, and there is still capacity, we have no tools to have them do anything extra except pay their impact fee.

Acting Chair Benham commented that he doesn't like impact fees especially in today's environment. He would like to see impact fees tied to the unemployment rate as a gesture to the private sector. If you are looking at 10% or more unemployment, there should be no impact fees. Until such time as the unemployment rate comes down, some percentage of an impact fee could be levied. If unemployment is at four percent, then impact fees could be at 100%. Anything over 9 % unemployment would equate to 0% impact fee levied.

He stated that he wanted to be silent on the sliding scale. He would rather the commission come up with it.

Mr. Winslow stated that if we recommend impact fees, are we also going to make a recommendation of what percentage to go with?

Acting Chair Benham stated that 53% is technically 10% of what was levied, and if we have a 10% unemployment rate, that 53% should be zero. It is an already reduced rate, so take it even further.

Mr. Stivender stated that he understood from the discussion, that until unemployment reaches 8%, we would not have impact fees.

Amye King stated the concerns that her department could have with this plan. The average subdivision could take a year or two to build out and if you are looking at this on a quarterly basis, it is possible that a developer would have to pay six different impact fees. It could be reflected back as bad customer service from the County. The customer likes consistency and predictability.

Commissioner Parks said that perhaps the commission could look at fees once a year and average in seasonal unemployment.

Linda Nagle stated that philosophically, she has a problem with impact fees. She doesn't believe in taxing people that aren't here. They have no say in the tax, also, to say that when construction increases because the unemployment rate goes down, you are taxing an industry, and that gets passed on to the consumer.

Impact fees do not add anything to the value of a house. We should be paying for our roads through bonds and other means. She stated that she believes that growth pays for itself.

Nancy Hurlbert stated that she has the opposite philosophy. We should never have a zero impact fee. Because Jim Stivender needs some negotiating capability with developers. She stated that she does not think growth pays for itself.

Mr. Winslow said that he doesn't agree with impact fees because it puts the burden on the new residents. He asked if the negotiation with developers is real.

Jim Stivender stated that all of the roads in the south lake area around Clermont were all negotiated with developers in that they gave the right of way. They were responsible for a certain amount of the traffic that would be created on those roads, and they paid for that, the rest of the capacity was paid either through impact fees or with credits on impact fees long before development ever occurred.

Nancy Hurlbert made a motion that impact fees be one of the alternative funding sources and that it be tied to a discount depending upon then number of alternative funding sources that are adopted, and that it also be tied to an unemployment indices.

Carol MacLeod seconded the motion for discussion.

Linda Nagle stated that is a technical because right now it is the funding source, so she doesn't think you should use the word "alternative'.

Acting Chair Benham stated that the more alternative funding sources for transportation, the less it will bring the impact fee down.

A vote was taken – three opposed (Linda Nagle, Alan Winslow and Ralph Smith)

Four in favor of (Nancy Hurlbert, Bill Benham, Jeffrey Banker and Carol MacLeod)

Motion passed.

Vance Jochim suggested a couple of bullet points. The Duncan Report talks about cost of living increases tied to the ENR system. Why shouldn't someone who is thirty miles away from all of the infrastructure pay more to help develop that infrastructure and schools, and doesn't drive up the cost of additional infrastructure.

Commissioner Parks stated that the committee should hear again what is going on in Pasco County. He suggested that perhaps the committee could make that another item, or a bullet for the commission to consider.

T.J. Fish added that the committee will either use the work done by Duncan, or not. The mobility fee discussion is something that could always come into play in Lake County. For the sake of argument, use the \$2500 per home, just like Pasco County, that is the fee for the entire

county. If you develop in an urban area, you pay a portion of the fee; the rest of the fee gets paid by another public funding source. If you develop in an urban area where they really want you, you pay no fee yourself, but that fee still gets paid by a mixture of fuel taxes. They are committed to use their ad valorem, but when they passed the policy, they said they were not in good shape now, so any growth in the ad valorem from this year on, one third of that will go into the transportation trust fund and that is the money used to buy down on the mobility fee.

Jim suggested putting in a statement under "impact fees" so it can be discussed at the next meeting.

The next two meetings dates will be September 29, 2011 and October 6, 2011.

Motion to adjourn was made by Nancy Hurlbert and seconded by Carol MacLeod – meeting adjourned at 12:00 p.m.

Respectfully submitted:

Phyllis Hegg _____
Public Works

Bill Benham _____
Acting CFAC Chairman